

EXHIBIT C

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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JOEL RUIZ, on behalf of himself)
and all others similarly)
situated,)

Plaintiff(s),)

v.)

) No. CV07-05739-SC

GAP, INC., and DOES 1-9,)
inclusive,)

Defendant(s).)

WEDNESDAY, JUNE 18, 2008

---oOo---

DEPOSITION OF

JOEL RUIZ

---oOo---

1 recollection of attempting to contact the Gap after
2 getting Exhibit 2.

3 A Yes. I was unsuccessful on that.

4 Q Okay. And my question now is: In what manner do
5 you think you tried to contact the Gap after getting
6 Exhibit 2?

7 A I tried contacting them about the 12 months to
8 possibly get more. I believe that was the reason.

9 Q And how do you think you tried to contact them?

10 A I guess by calling the number on there.

11 Q So you think you did call the toll-free number?

12 A I can't tell if it was this number or a different
13 number.

14 Q Okay. And what was your purpose in contacting
15 the Gap? Apart of which number you may have called, what
16 did you want to convey to them?

17 A About the 12 months monitoring. But as I said, I
18 was unsuccessful on contacting.

19 Q And when you say you wanted to contact them about
20 the 12 months monitoring, was it that you wanted to sign
21 up or you wanted to register your view that 12 months
22 wasn't sufficient?

23 A I wanted to dispute the 12 months.

24 Q Okay. And did you have a communication with the
25 Gap in October 2007 disputing the 12 months duration of

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1 the credit monitoring?

2 A I'm sorry, what date did you say?

3 Q In October 2007, did you have a communication
4 with the Gap in which you disputed the 12 months credit
5 monitoring?

6 A No.

7 Q And why?

8 A I was unable to reach an operator or a
9 representative.

10 Q Because you were put on hold or what's your
11 understanding?

12 A I believe it took too long and I was using my
13 cell phone, so...

14 Q So what you think happened, your best
15 recollection, if I understand you correctly, is that soon
16 after getting Exhibit 2, you were on your cell phone and
17 made an attempt to contact the Gap, but were put on hold
18 and never actually spoke to a customer representative?

19 A Correct.

20 Q How many efforts did you make?

21 A Just one.

22 Q And did you thereafter try to contact Gap through
23 the Web site that's -- the address shown on Exhibit 2?

24 A No, I did not attempt any further -- further
25 contact with Gap.

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1 A Correct. But as research has shown, identity
2 theft does not happen immediately.

3 Q So you thought the odds of an ID theft were
4 greater after 90 days than within 90 days; is that
5 correct?

6 A Correct.

7 Q And based on that, you were attempting to delay
8 the start date of the Triple Advantage Credit Monitoring
9 program by waiting toward the end of the expiration of the
10 90-day period; is that correct?

11 A I did not wait until the end. I did it on -- in
12 December, but I was trying to choose a time frame best
13 suitable for the one year that I was offered.

14 Q Okay. And later on in that same paragraph, there
15 is an activation code, do you see that, that you were
16 assigned?

17 A Correct.

18 Q Do you understand that you were assigned a unique
19 activation code for you that would enable you to sign onto
20 the Triple Advantage Credit Monitoring program?

21 A I was under the impression, but now it's -- as
22 you say it's unique, now I'm certain.

23 Q The -- strike that.

[24 About a third of the way down on page two in all
25 bold, it says, "Additional precautions you can take."

1 Do you see that?

2 A Correct.

3 Q And there are four or five bulleted paragraphs
4 starting with, "Look out for any unusual activity."

5 Do you see that?

6 A Yes.

7 Q Did you have your Wells Fargo credit card account
8 as of October 2007?

9 A Yes.

10 Q And did you look on your monthly credit card
11 statements to see if there was any unusual activity?

12 A Yes.

13 Q Did you find any?

14 A No.

15 Q And by "unusual activity," what I mean is charges
16 that you thought you hadn't incurred, somebody else might
17 have incurred, on your account.

18 You didn't find anything like that?

19 A Correct.

20 Q The next bullet says, "Consider contacting your
21 credit card issuers and financial institutions to inform
22 them of what happened."

23 Did you do that?

24 A No.

25 Q Do you have a savings and checking account?

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1 A Yes.

2 Q With Wells Fargo?

3 A Yes.

4 Q But you didn't contact them, either, I take it,
5 after getting this letter?

6 A No.

7 Q Okay. The fifth bullet down says, "You may
8 periodically obtain credit records from each of the three
9 nationwide credit bureaus listed below to have information
10 relating to fraudulent transactions removed."

11 Do you see that?

12 A Yes.

13 Q Did you do that?

14 A I attempted to do that, correct, yes.

15 Q When did you do that?

16 A I'm not -- I'm not familiar with the date.

17 Q And was that TransUnion you contacted?

18 A No. For -- TransUnion was for something else.

19 Q Okay. What did you attempt to do to obtain
20 credit reports from the three nationwide credit bureaus?

21 A As I said, when I noticed -- I see it everywhere
22 on the Internet regarding one free copy per year, the
23 annual free credit report, and I did attempt to do that,
24 but I'm unsure if I was successful or not since I was also
25 unsuccessful on the Triple Advantage Program.

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1 Q Do you remember which of the three credit bureaus
2 you tried to get your credit report from?

3 A It was probably Experian.

4 Q And you think you did this at the time soon after
5 getting Exhibit 2?

6 A No.

7 Q It was later?

8 A Correct.

9 Q Do you recall when?

10 A No.

11 Q When you get a credit report online from one of
12 the three credit bureaus, your credit report appears there
13 on the screen of your computer almost instantly once you
14 successfully log on.

15 Did that happen? Do you recall that happening?

16 A No. As I said, I was unsuccessful, I believe.

17 Q Did you try phoning any of the three toll-free
18 numbers listed in that -- underneath that bullet to obtain
19 a copy of your credit report?

20 A No. I did not want to -- want to call them, no.

21 Q And your best recollection is that you attempted
22 to do this through the Internet, but not through the
23 toll-free number?

24 A Correct.

25 Q The next bullet says, "To further protect

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1 yourself, you may contact the fraud departments of the
2 three major credit bureaus. They will discuss your
3 options with you. You have the right to ask that the
4 three credit bureaus place a fraud alert in your file."

5 Do you see that?

6 A Correct.

7 Q You didn't do that, though?

8 A Yes, I did.

9 Q You did place a fraud alert?

10 A Yes. With TransUnion I placed a fraud alert,
11 correct, because I -- I chose TransUnion because I did not
12 like Experian and Equifax after the experience I've had
13 with them.

14 Q When did you place that fraud alert on your file
15 with TransUnion?

16 A I would say about -- a couple weeks ago to a
17 month.

18 Q Why did you wait all that time to place a fraud
19 alert on your file when you got this letter in early
20 October 2007?

21 A Because I -- I practically -- I did not pay
22 attention to that part. I was mostly -- my mindset was up
23 on the top part with the Triple Advantage Program at the
24 time, and so I reviewed it again and then I noticed -- I
25 noticed it again and it clicked.

1 October 2007?

2 A Uh-huh, correct.

3 Q Did you keep a copy in your files at home of
4 Exhibit 2?

5 A Yes.

6 Q Do you have a file at home that contains
7 documents relating to this particular incident?

8 A Yes.

9 Q And what else is in there?

10 A I have copies of the e-mails sent to me by
11 Experian regarding my -- the Triple Advantage Program.

12 Q Okay. You testified at the beginning of this
13 deposition that one of the things Gap did wrong was
14 failing to adequately protect the information that you had
15 included in your employment application.

16 Do you recall that testimony?

17 A Correct.

18 Q Given what you know about the incident, what do
19 you believe Gap should have done that would have better
20 protected your information?

21 A Well, regarding the way the laptops were stolen,
22 they should have adequately -- oversight on the company
23 making sure they had the information encrypted and they
24 were not being put on laptops that could be carried out
25 into the public.

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1 A Yes, I've always checked my Wells Fargo account.

2 Q Okay. Your cell phone account is with T-Mobile?

3 A Correct.

4 Q Could you navigate to the T-Mobile site?

5 A Okay. I went into the Web site,
6 www.t-mobile.com.

7 Q Could you replicate for us the process that you
8 undertook to pull up your phone records?

9 A I will not do that on this computer since I don't
10 know -- I don't know what you have behind it.

11 Q You're concerned about the security of it?

12 A Yes, of course.

13 Q Okay. Tell me all the things you can recall
14 doing to attempt to sign up for the Experian Triple
15 Advantage Program.

16 A I visited the Web site listed on the letter here
17 on Exhibit 2, and after viewing the Web site, I read over
18 the information that it offers and then I attempted to
19 apply. And after attempting to apply, I received an
20 e-mail stating that my information was not able to be
21 found or it was -- it was a vague -- vague e-mail on if I
22 had signed up or not.

23 Q By the way -- we can go off the record for a
24 second.

25 (Off-the-record discussion.)

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1 Q BY MR. STERN: And as best you can recall, when
2 did you attempt to sign up for the Experian Triple
3 Advantage Program?

4 A I believe the date was December 10th, if I'm not
5 mistaken.

6 Q Okay. And you think that was done by an online
7 application and not through the 866 toll-free number?

8 A Yes, it was online.

9 Q We're going to mark as Exhibit 5 Plaintiffs'
10 objections and responses to Defendant Gap, Inc.'s first
11 set of interrogatories.

12 (Whereupon Defendants' Exhibit 5 was
13 marked for identification.)

14 MS. REZVANI: I have these, if you guys want
15 them.

16 Q BY MR. STERN: Mr. Ruiz, do you recognize
17 Exhibit 5?

18 A Yes.

19 Q Okay. And if you turn to the second to the last
20 page, page 16, do you recognize your signature?

21 A Yes.

22 Q And did you sign Exhibit 5 on June 9th, 2008?

23 A Yes.

24 Q Take a look at Exhibit 1, which is the complaint,
25 and turn to page 17. It's paragraph numbered 75. Okay.

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1 Q You didn't call Wells Fargo and get a new credit
2 card issued, did you?

3 A No.

4 Q You didn't change your account number on any
5 savings accounts with either Wells Fargo or any other
6 banks, did you?

7 A No, because it would be pointless since that was
8 not the information that was taken away from me.

9 Q And you never have, even to this day, asked for a
10 credit report from any of the three major credit reporting
11 companies; correct?

12 A No, I have -- I have tried to get a credit
13 report, but again, I was unsuccessful with Experian.

14 Q And what you did with TransUnion was put in a
15 credit freeze; correct? That's different than a credit
16 report.

17 A A fraud alert.

18 Q I'm sorry. Let me back up.

19 What you did with TransUnion was request a fraud
20 alert; correct?

21 A Correct.

22 Q But you didn't request a credit report from
23 TransUnion?

24 A I believe I did request a credit report, but I
25 can't remember the details on that.

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1 Q And that's something I think you said earlier you
2 weren't able to access or something?

3 MS. REZVANI: Objection to the extent it confuses
4 prior testimony.

5 MR. STERN: Yeah, I'll withdraw that.

6 Q Have you gone to the Social Security
7 administration and asked them to issue a new Social
8 Security number in your name?

9 A No. I would not want to go through that process.

10 Q How have you been harmed by the disclosure on the
11 laptop of your private information?

12 A All the time I've spent on trying to get this
13 fixed, the -- with the confusion on Experian, Equifax,
14 these two companies, and I still don't believe I have
15 signed up for the Triple Advantage Program. And just
16 the -- the attempt to come over here and try to make
17 everything right was a burden on myself also.

18 Q Other than the time spent in trying to sign up
19 through Experian, your work as a class plaintiff in this
20 case, have you been harmed in any other way as a result of
21 the release on the laptop of your private information?

22 MS. REZVANI: Objection to the extent it calls
23 for a legal conclusion.

24 THE WITNESS: Do I have to answer it?

25 MS. REZVANI: Yeah, you can answer.

1 THE WITNESS: I'm sorry. I lost my train of
2 thought. Can you repeat?

3 Q BY MR. STERN: Okay. You testified about the
4 time you spent. And now my question is: Other than time
5 spent, in what other ways have you been harmed by the
6 release of your private information on the laptop?

7 MS. REZVANI: Same objection.

8 THE WITNESS: The increased security threat of my
9 information by Gap's third-party vendor has me -- has me
10 on the ball all the time now about my credit, about my
11 information, about my money, about my Social Security
12 number. It could be used by anybody at any time. If it's
13 sold -- if it's sold from now or 10 years from now, 20
14 years from now, it's going to be there in the back hiding,
15 waiting, and I can't do nothing about it. That's the harm
16 that's been -- that I've been -- that I have.

17 Q BY MR. STERN: So the increased security threat,
18 the time you spent.

19 Is there anything else, any other ways in which
20 you've been harmed?

21 MS. REZVANI: Same objection.

22 THE WITNESS: No.

23 Q BY MR. STERN: If you were to leave your wallet
24 on this table and leave the deposition room for a few
25 minutes, and when you return, nothing has been taken out

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